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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 50325-0529
Pursuant to 37 CFR 1.8(a)(1)(ii) I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via the electronic filing system in accordance with 37 CFR §§1.6(1)(4) and 1.8(a)(1)(i)(C) on the date indicated below and before 9:00 PM PST. on _____ Signature / _____ Typed or printed name _____		Application Number 10/044,019 Filed January 11, 2002 First Named Inventor Partha Bhattacharya et al. Art Unit 2431 Examiner Aravind K. Moorthy
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.		
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>56,543</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		/ZhichongGu#56543/ Signature Zhichong Gu Typed or printed name (408) 414-1080 Telephone number Feb. 26, 2009 Date
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		

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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Confirmation No. 8175

Partha Bhattacharya, et al.

Examiner: Aravind K. Moorthy

Serial No.: 10/044,019

Group Art Unit No.: 2431

Filed on: January 11, 2002

For: METHOD AND APPARATUS FOR
COMPARING ACCESS CONTROL LISTS
FOR CONFIGURING A SECURITY POLICY
ON A NETWORK

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ATTACHMENT FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

The following clear errors occur in the currently maintained rejections of the Final Office Action mailed November 26, 2008.

I. The Examiner has committed a clear factual error in the rejection of claims 33 under 35 U.S.C. 102(b) as allegedly anticipated by Caronni et al., U.S. Patent No. 5,822,434 (hereafter "*Caronni*"). Specifically, the cited art clearly fails to teach a number of limitations cited in independent claim 33.

II. Claim 33 features a method that breaks down entries (e.g., subtracts one entry from another entry) from a first ACL into overlapping and non-overlapping sub-entries and then determines the equivalency of the first ACL and a second ACL by determining whether each of the sub-entries is contained in entries in the second ACL. Thus, under this approach, even if the first entries of the ACL are highly redundant or overlap, in determining the functional equivalency of the two ACLs it is not necessary to perform comparison operations using the

highly redundant or overlapping first entries directly. Instead, according to Claim 33, determining the functional equivalency of the two ACLs is by determining whether each of the first sub-entries identified from the first ACL is equivalent to or contained by one or more entries of the second ACL.

III. The Office Action cites *Caronni* at Abstract and col. 7 line 51 to col. 8 line 13 as disclosing all the features of Claim 33. This citation is repeated for every claim feature. Other than this repeated citation, the Office Action provides no reasoning as to why the cited excerpts allegedly disclose the features of Claim 33. For example, the Office Action fails to establish which entities of *Caronni* correspond to the first access control list and the second access control list in Claim 33, which entity of *Caronni* corresponds to the first access control entries in the first access control list, and which entity of *Caronni* corresponds to the sub-entries in the first access control list – and these features are completely missing from *Caronni*.

IV. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The failure of the Office Action to even identify which entities of *Caronni* corresponds to the first access control list and the second access control list of Claim 33 is an admission that *Caronni* does not anticipate each and every element of Claim 33. For at least this reason, the Office Action fails to state a prima facie case of unpatentability.

V. *Caronni* describes an approach under which two hosts may exchange key information to upgrade a previously unsecure communication session to a secure communication session based on the exchanged key information. **Only a single ACL that is to be updated by the exchanged key information is disclosed. No comparison of ACLs occurs.** Since *Caronni* only describes using exchanged key information to update the only ACL, by definition, the ACL will be changed. Since the only ACL is changed and updated with the exchanged key information, there is neither a disclosure nor a need to compare equivalency of two ACLs in *Caronni*.

VI. Importantly, the Office Action does not identify any place in *Caronni* that describes

“programmatically determining whether the first access control list is functionally equivalent to a second access control list by determining whether each of the first sub-entries in the first access control list is Caronniined by one or more entries of multiple second access control entries in the second access control list”, as claimed.

VII. In addition, Claim 33 features that “at least one of the one or more first sub-entries is derived from results of subtracting the particular access control entry from said another access control entry.” These sub-entries from results of subtracting entries in the first access control list are then used in determining equivalency between the first access control list and the second access control list. *Caronni* does not subtract entries in the only ACL, does not compare ACLs by deriving sub-entries from subtraction of entries in a first ACL and by determining equivalency of the first ACL and a second ACL using these sub-entries of the first ACL.

For all these reasons, *Caronni* fails to anticipate Claim 33. The Office Action fails to state a prima facie case of unpatentability and reflects clear error. Reconsideration and withdrawal or reversal of the rejections to Claim 33, and similarly to 10, 11, 14-16 and 34-48, is respectfully requested.

Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302.

Respectfully submitted,
HICKMAN PALERMO TRUONG & BECKER LLP

Dated: February 26, 2009

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